UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
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NOTIFICATION DATE	DELIVERY MODE
09/02/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWIP.COM
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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 July 2009*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,5-12,14-22 and 24-32* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,5-12,14-22 and 24-32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the following communications: amendment filed 1/06/2009.
This action is made Final.

2.   Claims 1, 3, 5-12, 14-22 and 24-32 are pending in the case. Claims 1, 12, 22, and 32 are the
        independent claims.

Specification

Claims 5-8 are objected to because of the following informalities: depending from cancelled claim 4.

While the examiner could have returned the amendment as non-compliant, in interest of compacting

prosecution, the examiner objects claim 5-8 with the assumption that these claims now depend from

claim 3. Appropriate correction is required.

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive

and, therefore, the finality of that action is withdrawn thus the final below is issued under MPEP 706.07 (e

and a). "Under present practice second and **subsequent actions shall be made final** where a new

grounds of rejection is necessitated by amendment." Specifically, applicant's statement under 103 (c)

that the Monahan reference was subject to assignment to EBay and therefore is disqualified under prior

art. MPEP 706.07 (a) further states the:

    When applying any 35 U.S.C. 102(e)/103 references against the claims of an application the examiner
should anticipate that a statement averring common ownership at the time the invention was made may
disqualify any patent or application applied in a rejection under 35 U.S.C. 103 based on 35 U.S.C. 102(e).
If such a statement is filed in reply to the 35 U.S.C. 102(e)/103 rejection and the **claims are not
amended, the examiner may not make the next Office action final if a new rejection is made.** See
MPEP §706.02(l)(3).

In this case, **applicant amends Independent claim 1, 12, 22 and 32** by integrating the limitation in claim

4 up into claim 1, which narrows the claim and integrates new scope into other claims. For example, the

narrowed feature was not a part of claims 1, 3, 9-11, 12, 14, 19-21, 24, 29-32 previously and therefore the

new combination necessitates the new final below under MPEP 706.07(a).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as
set forth in section 102 of this title, if the differences between the subject matter sought to be
patented and the prior art are such that the subject matter as a whole would have been obvious
at the time the invention was made to a person having ordinary skill in the art to which said
subject matter pertains. Patentability shall not be negatived by the manner in which the invention
was made.
This application currently names joint inventors. In considering patentability of the claims under

35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was

commonly owned at the time any inventions covered therein were made absent any evidence to

the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor

and invention dates of each claim that was not commonly owned at the time a later invention was

made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35

U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4.   **Claims 1, 3, 5-12, 14-22 and 24-32 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over Dettinger et al. U.S Patent No. 6947928 filed Feb 26, 2002, in view of

Williamowski et al. 6434546 field Dec. 22, 1998, in further view of Szabo et al. U.S Patent

No. 7,181,438 issued Feb. 20, 2007 and filed May 30, 2000 (See July 2007 892).

In regard to **Independent claim 1,** Dettinger teaches a method to facilitate a search of a

database utilizing multiple search criteria, the method comprising:

- Receiving first and second search criteria from a user, the second search criteria

  including at least two attributes (See column 6, lines 25-67 and Figure 4-5 and column 7,

  lines 40-50). Dettinger shows the user entering criteria into the system where the first is

data of birth and the second is a gender. Dettinger teaches complex queries that can

have multiple attributes (See column 2, lines 55-67).

- Presenting a search interface for the user, the first and second criteria being included

  within the search interface (See Figure 5). Dettinger shows the first and second criteria

  included in the interface (See middle under condition).

- Presenting ~~the user with~~ an option to the user through the search interface ~~selectively~~ to

  selectively include and exclude each of the first and second search criteria from a search

  query while retaining the first and second criteria within the search interface, the search

  query capable of being run against <u>a</u> database (See figure4-6 and column 1, lines 35-40).

  Dettinger expressly show presenting the user an option (See edit, delete and/or, not) to

  include or exclude the birthdate and gender from the search query and maintains the

  criteria in the interface 520 (See also figures 9-17, which several alternative options for

  including and excluding search criteria with options presented to the user).

Dettinger does not expressly teach:

<u>The search criteria includes at least two attribute parameters selectably included and excludable</u>

<u>from the search criteria and building the query using the first, second or first or second only and</u>

<u>building the query responsive to the option by the user, the search query including at least the</u>

<u>first or second criteria and conducting the search on a database.</u>

Williamowski teaches a drag and drop interface that allows any number of user selectable criteria

to be entered from a first or second query, while maintaining the first and second query on the

interface. The query is run against a database (See figures 6-9 and column 7, lines 1-67 and

column 8, lines 1-55).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of

the invention, having the teachings of Dettinger and Williamowski in front of them, to modify in the

alternative the system of Dettinger to explicitly show the include and exclude features of a first

and second criteria on the interface. The motivation comes first from Dettinger where Dettinger

states that "an additional number of interfaces may be needed for more complicated conditions such as ranges" (See column 7, lines 1-12). Second, **Williamowski** suggests that query generation can be improved by making dynamic queries viewable (See column 1, lines 50-67).

Dettinger in view of Williamowski do not expressly teach that the <u>database forms a part of a network based commerce facility.</u> Szabo teaches the method wherein the database forms part of a network-based commerce facility (See column 49, lines 50-67 and column 54, lines 15-36). Szabo, Dettinger and Williamowski all teach the user can enter a freeform set of variables to be used as criteria to be used by the search engine in searching against a database. They all teach searching for items in a database. They all teach presenting the user an interface and they all teach the process of assisting the user to focus on the item of interest.

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Szabo, Dettinger and Williamowski in front of them, to modify in the alternative the system of Dettinger and Williamowski to explicitly include a database in a commerce facility. The motivation to combine Szabo with Williamowski and Dettinger comes from Szabo where Szabo suggests that the user creates, modifies, and extends taxonomies to be used for the purposes of e-commerce (See column 1, lines 5-10 and column 49, lines 50-67 and column 50, lines 1-10 and column 54, lines 15-36, column 71, lines 55-67, shopper, column 73, search arrangement feature, column 85, lines 1-17 and column 90, lines 40-51, e-commerce content) and where there is a need for an improved search strategy and tool the provides an increase in efficiency in locating a users desired content (See column 6, lines 5-15). .

With respect to **dependent claim 2,** Dettinger teaches the method <u>further comprising</u> conducting a search of the database utilizing the search query, the search query including at least one of the first and second search criteria as included by the user (See column 8, lines 20-23 and figure 7).

With respect to **dependent claim 3,** Dettinger teaches the method <u>further comprising:</u> presenting

a search interface to the user to receive the first and the second search criteria, the search

interface providing the user with a limitation option to limit a scope of any search query including

the first search criteria; monitoring selection of the limitation option by the user; and monitoring an

indication from the user that indicates inclusion or exclusion of each of the first and second

search criteria within the search query (See column 7, lines 50-67 and column 8, lines 1-15 and

figure 7). Dettinger teaches presenting the user with the date of birth and gender criteria and then

allowing the user to and/or the queries together and then selects the group function. The interface

monitors the selection because it displays the selections in the search summary area.

With respect to **dependent claims 5-8,** as indicated in the above discussion, Dettinger in view

Williamowski in further view of Szabo teaches every element of claim 4.

Dettinger teaches the method where the first and the second search criteria are entered by a user

(See Figure 2 and column 6, lines 25-37). Dettinger also teaches a first search criteria section for

receiving the first search criteria from the user (See Figure 2, data of birth); and a second search

criteria section for receiving the second search criteria from the user (See gender = male), and

wherein the second search criteria section provides a plurality of optional search criteria at least

one of which is selectable by the user to define the second search criteria (See Figure 5, edit,

and, not, delete options to group) and responsive to a first search request from the user

conducting a search of the database, and wherein the first search query includes the first search

criteria but not the second search criteria (See Figure 5, 524 user can select which items to group

or include, which can include the first, and not the second and visa versa as shown in figures 9-

15) and responsive to a second search request form the user, wherein the second search query

includes both the first and the second search criteria; and responsive to a third search request

from the user, wherein the third search query includes the second search criteria but not the first

search criteria conducting a search of the database (See Figure 5, 524 user can select which

items to group or include, which can include the first, and not the second and the third and visa

versa as shown in figures 9-15)

Dettinger does expressly teach that the wherein the network-based commerce facility is

a network-based auction facility and the products are associated with listings of products up for

auction on the auction facility and does not teach the second search criteria being associated with

one of a plurality of categories in which listings are arranged and conducting a first search of the

database to locate listings based on a first search query and conducting a second search of the

database to locate listings based on a second search query, and conducting a third search of the

database to locate listings based on a third search query. However, these limitations would have

been obvious to one of ordinary skill in the art at the time of the invention, in view of Szabo,

because Szabo teaches a database that presents user selectable search fields where the

database is connected to an e-commerce network (See column 71, lines 55-67, shopper, column

73, search arrangement feature, column 85, lines 1-17). Szabo and Dettinger are analogous art

because they allow the user to see previously created search strings and to select and deselect

terms from the result sets. The motivation to combine comes from the suggestion in Szabo where

Szabo suggests that the user creates, modifies, and extends taxonomies to be used for the

purposes of e-commerce (See column 1, lines 5-10 and column 49, lines 50-67 and column 50,

lines 1-10 and column 54, lines 15-36, column 71, lines 55-67, shopper, column 73, search

arrangement feature, column 85, lines 1-17 and column 90, lines 40-51, e-commerce content)

and where there is a need for an improved search strategy and tool the provides an increase in

efficiency in locating a users desired content (See column 6, lines 5-15). .

With respect to **dependent claim 9,** Dettinger teaches the method wherein the first search

criteria is a keyword that identifies at least one category of listings included within the database,

and the second search criteria is an attribute associated with a listing stored in the database (See

Figure 2 and column 6, lines 15-57, data of birth and gender can be considered a keyword and

attribute of a person listed in a database).

With respect to **dependent claim 10,** Dettinger teaches the method wherein the first search

criteria is a keyword that identifies at least one category of listings included within the database, and the second search criteria identifies at least one sub-category of the at least one category (See column 6, lines 15-57 and column 7, lines 5-50).

With respect to **dependent claim 11,** Dettinger teaches the method wherein the search interface maintains a display of each of the first and second search criteria, regardless of whether the first and second search criteria are each selected by the user to be included within the search query (See column 6, lines 15-57 and column 7, lines 5-50).

In regard to **Claims 12, 14, 19-21,** claims 12, 14, 19-21 reflect the medium comprising computer readable instructions for performing the steps of method claims 1, 3, 9-11 respectively, and are rejected along the same rationale.

In regard to **Claims 15 - 18,** claims 15-18 reflect the medium comprising computer readable instructions for performing the steps of method claims 5-6, and 8, respectively, and are rejected along the same rationale.

In regard to **Claims 22, 24, 29-31,** claims 22, 24, 29-31 reflect the system comprising computer readable instructions for performing the steps of method claims 1, 3, 9-11, respectively, and are rejected along the same rationale.

In regard to **Claims 25-28,** claims 25-28 reflect the system comprising computer readable instructions for performing the steps of method claims 5-6, and 8, respectively, and are rejected along the same rationale.

In regard to **Independent claim 32,** Dettinger teaches a system to facilitate searching of a database using multiple search criteria, the system including:

- Receiving first and second search criteria from a user, <u>the second search criteria including at least two attributes</u> (See column 6, lines 25-67 and Figure 4-5 and column 7, lines 40-50). Dettinger shows the user entering criteria into the system where the first is data of birth and the second is a gender. Dettinger teaches complex queries that can have multiple attributes (See column 2, lines 55-67).

- Presenting a search interface for the user, the first and second criteria being included within the search interface (See Figure 5). Dettinger shows the first and second criteria included in the interface (See middle under condition).

- Presenting ~~the user with~~ an option to the user through the search interface ~~selectively~~ to selectively include and exclude each of the first and second search criteria from a search query while retaining the first and second criteria within the search interface, the search query capable of being run against a database (See figure4-6 and column 1, lines 35-40). Dettinger expressly show presenting the user an option (See edit, delete and/or, not) to include or exclude the birthdate and gender from the search query and maintains the criteria in the interface 520 (See also figures 9-17, which several alternative options for including and excluding search criteria with options presented to the user).

Dettinger does not expressly teach:

<u>The search criteria includes at least two attribute parameters selectably included and excludable from the search criteria and building the query using the first, second or first or second only and building the query responsive to the option by the user, the search query including at least the first or second criteria and conducting the search on a database.</u>

Williamowski teaches a drag and drop interface that allows any number of user selectable criteria to be entered from a first or second query, while maintaining the first and second query on the

interface. The query is run against a database (See figures 6-9 and column 7, lines 1-67 and column 8, lines 1-55).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time of the invention, having the teachings of Dettinger and Williamowski in front of them, to modify in the alternative the system of Dettinger to explicitly show the include and exclude features of a first and second criteria on the interface. The motivation comes first from Dettinger where Dettinger states that "an additional number of interfaces may be needed for more complicated conditions such as ranges" (See column 7, lines 1-12). Second, **Williamowski** suggests that query generation can be improved by making dynamic queries viewable (See column 1, lines 50-67).

It is noted that any citation to specific pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re *Heck*, 699 F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

7.   Applicant's arguments with respect to claims 1, 3, 5-12, 14-22 and 24-32 have been considered moot in light of the new grounds of rejection, and explanation in response to amendment section presented above.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the

extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from

the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date

of this final action and the advisory action is not mailed until after the end of the THREE-MONTH

shortened statutory period, then the shortened statutory period will expire on the date the advisory action

is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX

MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should

be directed to STEVEN B. THERIAULT whose telephone number is (571)272-5867. The examiner can

normally be reached on Mon.-Fri. 10 am - 7 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this

application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application

Information Retrieval (PAIR) system. Status information for published applications may be obtained from

either Private PAIR or Public PAIR. Status information for unpublished applications is available through

Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC)

at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative

or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-

1000.

/Steven B Theriault/
Primary Examiner
Art Unit 2179